

**Ives Business Forms, Inc. and United Labor Unions,
Local 100, Petitioner. Case 15-RC-6824**

August 10, 1982

DECISION ON REVIEW

BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN

On August 31, 1981, the Regional Director for Region 15 issued a Decision and Direction of Election in the above-entitled proceeding in which he found that the smallest appropriate unit consists of all the Employer's employees at its New Orleans, Louisiana, facility, excluding office clerical employees, outside salesmen, guards, and supervisors as defined by the Act.¹ Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a timely request for review of the Regional Director's decision and brief in support thereof, contending, *inter alia*, that the unit determination is clearly erroneous and a departure from reported Board precedent. The Employer filed a brief in opposition. On September 29, 1981, the National Labor Relations Board, by telegraphic order, granted the Petitioner's request for review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review, and makes the following findings.

The Petitioner seeks to represent a unit consisting solely of warehouse employees, truckdrivers, and the porter² at the Employer's facility. The Petitioner asserts that the petitioned-for employees enjoy an identifiable community of interest distinct from that of other employees, as evidenced by their separate supervision and work areas, their different work duties and salary levels, and their lack of substantial interchange or integration with other employee groups. In agreement with the Regional Director, the Employer contends that since all of its employees enjoy the same fringe benefits, are all hourly paid, work the same shift (except shipping employees), and use the same facilities and since its operations are functionally integrated with substantial employee contact, interchange, and transfer, an overall unit is the smallest appropriate unit. Ac-

cordingly, the Employer contends that the appropriate unit must also include its employees in the letterpress department, engraving department, and print department, as well as the warehouse, print, and engraving clericals.

The Employer manufactures and sells office supplies from its New Orleans facility, deriving approximately 50 percent of its business from the sale of forms which its prints and approximately 50 percent from the sale of premanufactured office supplies. The Employer operates out of a four-story building³ in which employees are permanently assigned to only the first three floors, the fourth floor and basement being merely storage and warehouse areas. The first floor of the Employer's facility houses the shipping, receiving, engraving, and letterpress departments and a warehouse area. Located on the second floor are the accounting department, a clerical area, a "camera make-ready room," and a warehouse area. The third floor contains the Employer's rotary, bindery, and offset departments which combine to form the printing department as well as a warehouse area.

Assigned to the first floor are 2 receiving employees and 20 shipping employees, referred to as warehousemen. These employees perform traditional warehouse work. The receiving employees, supervised by Receiving Supervisor Henderson Hughes, receive incoming merchandise, shelve merchandise in the warehouse, wrap processed merchandise for shipment, and move merchandise from one part of the building to another. The shipping employees are primarily responsible, as their job classification implies, for shipping merchandise and are supervised by Shipping Supervisor Henry Wooden or, if on the second shift, by Andre Mensas, the security supervisor. These employees pull merchandise from shelves; assemble orders, checking off shipping tickets as they do so; label merchandise; and load trucks for delivery. They also assist the receiving department in receiving merchandise and moving materials from one part of the building to another. The eight truckdrivers in the shipping department spend the bulk of their worktime (5 to 5-1/2 hours/8-hour day) making local deliveries. The remainder of their time is usually spent in moving merchandise and getting orders from one department or another to the trucks for delivery.

Also on the first floor are six engraving employees—four press operators and two packers—who are supervised by Allen Blanchard, the engraving

¹ The unit found appropriate includes 22 warehousemen (20 shipping and 2 receiving employees), 8 truckdrivers, 2 letterpress employees, 6 engraving department employees, 11 print department employees, 8 warehouse clericals, 1 engraving clerical, 3 print clericals, and the porter.

² Both parties stipulated to the inclusion of the porter in any unit found appropriate.

³ The Employer also maintains an overflow warehouse which is used for the receipt of large quantities of merchandise which physically cannot be kept at the main building. No employees are assigned to this location on a permanent basis.

supervisor. The four press operators run the engraving presses. The packers are not involved in actual printing work, but rather check completed jobs for quality, then package, wrap, and label the merchandise and move it to various parts of the warehouse for delivery. They may go into the warehouse to check their stock, but they do not do heavy physical work. The two employees in the letterpress department operate letterpress machines. They have no immediate supervisor, but are ultimately supervised by Director of Operations George Dugazon. All first floor employees punch the first floor timeclock. If the timecards of letterpress employees need to be approved for any reason, such approval may come from either the director of operations or the shipping supervisor.

The clerical employees are all located on the second floor. There are eight warehouse clericals, three print clericals, and one engraving clerical. The warehouse clericals, who are supervised by Office Manager Gilbert Timpe and the Employer's vice president, Peter Ives, spend approximately 60 percent of their worktime at their desks tracing merchandise, processing orders, and preparing shipping tickets. The remaining 40 to 50 percent of their worktime is spent on the first floor following up on orders, looking for merchandise, checking in merchandise, putting merchandise in packing areas with packing tickets, and taking physical counts of warehouse merchandise. The warehouse clericals also handle specialty items which comprise approximately 22,000 of the 30,000 items received by the Employer. When such merchandise is received, the warehouse clericals are notified, and it is their responsibility to divide the merchandise and place it on the packing table for the shipping department to package, label, and ship. These clericals also serve customers who walk into the plant and, in about half such instances, they actually get the merchandise for the customers. The print clericals are responsible for keeping an inventory of products and raw materials, issuing job tickets, tracing deliveries, and physically counting merchandise when figures do not jibe, as well as doing negative stripping, layout, and camera work. The engraving clerical spends approximately 60 percent of her time on the second floor and 40 percent on the first floor in the engraving department. She processes job tickets, traces deliveries, does paperwork corrections, and maintains a physical inventory of papers used in engraving and presold forms. None of the clericals punch a timeclock, but rather complete timecards. The warehouse clericals' timecards are approved by the office manager. Timecards for print clericals are approved by the director of operations and those of the engraving clericals are ap-

proved by the director of engraving. Their desks on the second floor are not intermingled but instead are situated in areas pertaining to their respective jobs.

There are approximately 11 employees in the printing department on the third floor. These employees work in either offset, bindery, or rotary. Their main function is to operate machinery. There are three pieces of equipment in the rotary department—two presses run by two pressmen and a collator which is run by the collator operator. Pressmen require training to run the presses and, at the time of the hearing, one pressman, hired 4-5 weeks prior to the hearing, was still receiving on-the-job training. All printing employees punch the third floor timeclock.

All employees are paid by the hour and are eligible to receive the same benefits. They may use any of the employee break rooms which are located on every floor, although most employees eat their lunch on the same floor where they work. All employees work a single shift from 8 a.m.-4:30 p.m., except shipping employees who work either of two shifts, 7 a.m.-3:30 p.m. or 12-8:30 p.m. Raises are generally given twice a year on an individual basis with the decision as to who should receive such a pay increase being made by Vice President Ives and the employee's supervisor. All employees, except the letterpress employees who are deaf, participate in an annual shipping inventory of the facility which takes approximately 2-1/2 to 3 days to complete. Also, all employees (except letterpress employees) as well as supervisors with extra time are expected to assist in periodic resets, i.e., the redistribution of warehouse merchandise or stock. At the time of the hearing, the most recent redistribution had taken place approximately 9 months before and had taken 4 months to complete. All employees wear ID badges which are color coded by floor. Only truckdrivers wear uniforms, although Vice President Ives would like to change this policy.

It is the Employer's policy to use employees on an "as needed" basis. Thus, regardless of job classification, any employee may be asked on occasion to move merchandise from one part of the facility to another when necessary. Although Vice President Ives claimed that letterpress employees moved merchandise from receiving to shipping on a weekly basis, he cited only one specific example of such activity, which had occurred 3 weeks before the hearing. In that instance, after a shipment of envelopes had been received by the receiving department, the letterpress employees picked up their share, and distributed some to offset and the third floor warehouse "and some went out on an order."

Similarly, although Ives testified that engraving employees have loaded trucks and letterpress employees have packed merchandise in the warehouse, he gave no specific examples of such interchange. Ives also testified that during the past year the letterpress employees had assisted in loading trucks on approximately 10-15 occasions, each taking about 20 to 30 minutes. For example, approximately 3 weeks before the hearing, letterpress employees loaded a customer's vehicle. However, only warehouse employees and truckdrivers unload trucks, stock merchandise on shelves, or "pull" orders. Warehouse employees and truckdrivers have never replaced the collator operator, pressmen, or print clericals, as those jobs require a certain degree of skill and/or training which warehouse employees do not possess. Warehouse employees have, however, temporarily acted as collator assistant, a job requiring no skill. None of the employees are cross-trained for bindery, offset, or rotary work. The print clericals have only been replaced by pressmen and supervisors. Office employees have temporarily substituted for offset employees and engraving employees have replaced office clericals and bindery employees when work in engraving is slow. Although the record shows there have been three temporary transfers from the warehouse to the bindery area, all of these occurred after the Employer was presented with the instant petition.

There have been several permanent transfers⁴ but only two such transfers involve movement into the petitioned-for unit—a collator assistant transferred to the warehouse some 2-1/2 years before the hearing and a retarded individual hired as a summer employee, who was not capable of performing work in printing was transferred to and ultimately fired from receiving. There was also one transfer out of the unit—a warehouse employee was made a supervisor in offset approximately 3 years ago.

Approximately 67 percent of the employees sought to be excluded by the Petitioner earn over \$5 per hour. By comparison only approximately 27 percent of the warehouse employees and truckdrivers earn more than this amount per hour.

Considering the above factors, we find that the warehouse employees and truckdrivers share a sufficiently distinct community of interest from the Employer's other employees so as to constitute a separate appropriate unit. Thus, the warehouse employees and truckdrivers alone are engaged primar-

ily and almost exclusively in traditional warehouse and delivery functions. Though letterpress employees have also loaded trucks, such work is performed only approximately once a month for 20 to 30 minutes at a time and thus is infrequent and insubstantial. Similarly, there is no evidence that non-warehouse employees perform a substantial amount of warehouse work during the annual inventory or the periodic resets or that their movement of material within the facility is anything more than occasional or "as needed." Furthermore, the record evidence reveals few instances of permanent or temporary transfer of employees into or out of the warehouse and no transfers involving drivers. There is no established line of promotion into or out of the various job classifications. Indeed, some positions are not interchangeable as they require a level of skill and training not possessed by all employees. Moreover, although there is regular contact between the warehouse employees and the Employer's other employees, such contact only occurs when warehousemen move merchandise between the various departments at the Employer's facility. Also, the various classifications of employees are physically segregated into various departments on separate floors. Although the Employer contends that this separation is due solely to the manner in which the building was originally constructed, the fact remains that the Employer utilizes the various partitioned areas as separate departments to which particular employees are assigned on a permanent basis. In addition, the various classifications of employees are separately supervised. The fact that letterpress timecards may be approved by either the general operations director or shipping supervisor does not establish common supervision as it does not relate to the performance of the letterpress employees' work but merely to the possibility of an error in timekeeping. Whatever supervision is necessary for the letterpress employees comes from the director of operations.

In these circumstances, where the employees sought perform separate and distinct functions, are separately supervised, physically segregated, have minimal contact with other employees, and there is little transfer or interchange, we find that a unit of warehouse employees and truckdrivers as requested by the Petitioner is appropriate. *Wickes Furniture, a Division of the Wickes Corporation*, 255 NLRB 545 (1981); *Welsch Lumber and Supply, Inc., d/b/a Big Buck Lumber*, 241 NLRB 639 (1979); *Sears, Roebuck and Co.*, 235 NLRB 678 (1978).⁵

⁴ These include: letterpress employee to controller, bindery employee to letterpress, receptionist to print clerical, two telephone receptionists to the accounting department, warehouseman to receiving supervisor, warehouseman to offset supervisor, printing employee to warehouse, and bindery employee to receiving.

⁵ *Gustave Fischer Inc.*, 256 NLRB 1069 (1981), relied on by the Employer and the Regional Director, in which the Board found appropriate

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However, we would also include the warehouse clericals in the unit found appropriate. They spend a considerable amount of time in the warehouse performing typical warehouse functions such as counting merchandise and preparing specialty merchandise for packaging. Even while at their desks they are processing orders and tracing merchandise. Accordingly, as they do not perform typical office clerical duties but rather perform work directly related to and integrated with the functional operation of the warehouse, we shall include them in the warehouse and driver unit.⁶

In view of the above, we find the following unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act:

an overall unit at a retail sales and service furniture outlet, is distinguishable as none of the various job classifications in that case required any particular skill or training, unlike the engraving, printing, and letterpress positions herein, and thus were of an interchangeable nature.

⁶ *Sears, Roebuck and Co.*, 222 NLRB 476 (1976); *Regal Thread & Notion Co., Inc.*, 221 NLRB 610 (1975).

All warehousemen, drivers, shipping and receiving employees, the porter, and warehouse clericals; excluding engraving employees, letterpress employees, engraving clerical, print clericals, office clericals, outside salesmen, guards and supervisors as defined in the Act.

Accordingly, as the Petitioner indicated a willingness to proceed to an election in any unit found appropriate, the case is remanded to the Regional Director for the purpose of conducting an election⁷ pursuant to his Decision and Direction of Election, as modified herein, except that the payroll period for determining eligibility shall be that immediately preceding the issuance date of this Decision on Review.⁸

⁷ The Regional Director, for reasons not relevant to the instant proceeding, chose not to conduct the election pending the Board's resolution of the issues raised by the Petitioner.

⁸ [Excelsior footnote omitted from publication.]